

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7847

ALBERT E. DEW,

Plaintiff - Appellant,

versus

KATHERINE DEWALD, Nurse; RENEE WOLFE, Nurse,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. James C. Fox, Senior
District Judge. (CA-03-92-5-F)

Submitted: April 29, 2004

Decided: May 4, 2004

Before LUTTIG, WILLIAMS, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Albert E. Dew, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Albert E. Dew appeals from the district court's order dismissing without prejudice his 42 U.S.C. § 1983 (2000) complaint. The district court dismissed the complaint for failure to comply with Rule 8 of the Federal Rules of Civil Procedure, which requires a party to provide "a short and plain statement of the claim." The district court's dismissal without prejudice is not appealable. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993). A dismissal without prejudice is a final order only if "'no amendment [to the complaint] could cure the defects in the plaintiff's case.'" Id. at 1067 (quoting Coniston Corp. v. Village of Hoffman Estates, 844 F.2d 461, 463 (7th Cir. 1988)). In ascertaining whether a dismissal without prejudice is reviewable in this court, we must determine "whether the plaintiff could save his action by merely amending his complaint." Domino Sugar, 10 F.3d at 1066-67. In this case, as the district court explained, Dew can "cure the defect by amending his complaint to comply with Rule 8." Therefore, the dismissal order is not appealable. Accordingly, we dismiss the appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED